

Financial Institutions

July 2004

DEPOSITS AND OTHER FUNDS

This guide covers some common errors revealed during Unclaimed Property (UCP) audits of financial institutions including banks, savings and loans, and credit unions.

Common Terms

Abandoned account: An account with no positive owner contact for three years.

Inactive or dormant: An account without customer contact or account activity after a period of time.

Positive owner contact: Documented contact by the owner including:

- deposits
- withdrawals
- letters
- phone calls
- address changes
- positive owner contacts with a related account

Positive owner contact does not include unreturned mail sent by the financial institution, service charges, automatic interest transfers, and changes made by the bank such as zip code or area code updates.

SAVINGS AND CHECKING ACCOUNTS

Savings and checking accounts are abandoned if there is no positive owner contact for three years. You must pay interest on interest-bearing accounts until you remit the property to the state, unless you are permitted to stop interest by contract. We will pay interest on reported interest-bearing accounts to the owner at the rate you report for up to ten years.

The dramatic increase in mergers and upgraded computer systems in the banking industry may cause problems with aging and reporting unclaimed savings and checking accounts. Below are common problems found during our audits.

Common problems

- A computer conversion caused the date used for aging accounts to be refreshed incorrectly.
- Merged branches from another financial institution had a conversion date problem.
- The UCP reporting program did not select accounts older than the current reporting requirement. For example, the program asks for accounts with the last activity between July 1, 1998, and June 30, 2001, for the 2004 report. Accounts with activity dates prior to July 1, 1998, do not appear on the report.

- The financial institution removed old information from the computer system, including erasing outdated messages, adding new fields, and other internal modifications. The modifications updated the customer contact field updates even though no positive contact occurred.

Human error can undo the best unclaimed property tracking system and inactive account procedures. Common problems include:

- A branch manager incorrectly assumed that non-returned mail was positive owner contact and believed that only accounts with bad addresses needed to be reported.
- Indirect evidence of owner contact, such as a statement mailed but not returned by the post office, is not positive owner contact.
- Branch employees continued to update inactive owner accounts, contrary to the new computer system procedures.
- Several accounts were not reported when required. The financial institution failed to send the required notification letter prior to reporting. You must send a notification letter to accounts over \$75 after May 1, and before August 1, unless you have proof the address is incorrect.
- The financial institution continued to take fees after the June 30 cutoff of the report year. All fees must cease on the June 30 prior to reporting an account.

TIME CERTIFICATES OF DEPOSIT

The two types of time certificates of deposit (TCDs) are:

1. Automatically Renewing TCDs

If there is no contact with the owner, these certificates are abandoned three years after the expiration of the initial rollover period. If the rollover period is less than one year, start aging for abandonment after one year.

2. Matured TCDs (non-renewing)

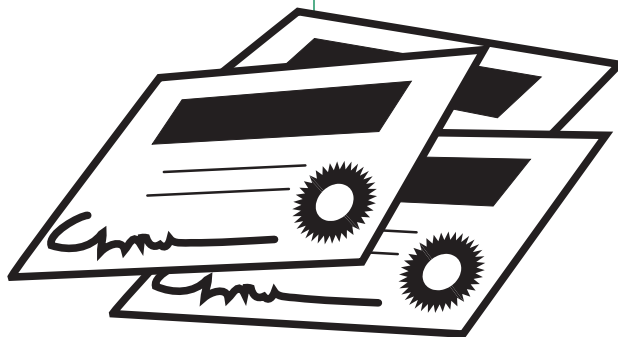
If there is no contact with the owner, non-renewing certificates are presumed abandoned three years after maturity.

Prevent accidental abandonment

Contact the owner within three years of the initial maturity or rollover period. Continue to follow up with the owner every three years. Related account activity also prevents abandonment.

Reporting Time Certificates

Automatically renewing TCDs may become abandoned and reportable prior to the next rollover date. If the bank would normally forfeit interest or charge a penalty for closing the TCDs prior to rollover, you need to postpone reporting and report the TCDs at its next maturity. This procedure could require the bank to file several reports throughout the year as “abandoned” TCDs to complete the next maturity. Most financial institutions waive forfeitures and penalties when reporting abandoned TCDs to avoid reporting several times each year.



RELATED ACCOUNT ACTIVITY

If the apparent owner of an inactive account has multiple accounts with a financial institution, it is important to check related accounts for recent activity.

If the customer has a related account with positive owner contact within the last three years, the most recent related activity should be used for abandonment aging purposes on all of the customer's accounts.

Example: A customer's savings account has had no customer-generated activity in the last three years. However, two years ago the customer also set up a time certificate of deposit. Assuming there is no future contact with the customer, both accounts should be reported three years after the first maturity of the time certificate.

A common situation is a customer with a savings account that has had no activity for several years but they maintain an active checking account. In this situation the activity on the checking account would prevent the savings account from being presumed abandoned and reported as unclaimed property.

Depending on your system, the accounts may be linked in your database. If you do not have linked accounts, you may have to review your dormant suspect accounts for related accounts with more recent activity. Related accounts may include:

- | | |
|--------------------|-----------------------------------|
| ◆ Loan | ◆ Time certificate |
| ◆ Safe deposit box | ◆ Checking account |
| ◆ Savings account | ◆ IRA or other retirement account |

Positive owner contact can take many forms including a phone call from an owner requesting information about one of their accounts. Your employees can note the phone call in a comments field or logbook. This is evidence of positive owner contact.

Use care when updating inactive accounts based on non-transaction owner contacts. There is an internal control danger in allowing employees to reactivate an inactive account based on a telephone call record. If an account is in an inactive status, we suggest obtaining a written confirmation from the owner or having a second person follow up with a phone contact to the customer to verify the first employee's record.

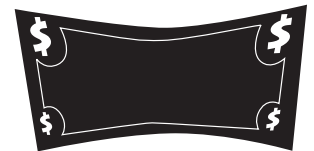
INACTIVITY FEES AND CEASING INTEREST

The Department is concerned when interest is ceased or fees are charged for inactivity of accounts. Customers impacted by these practices are usually unaware of the fees and cannot complain or move their funds. Incorrectly charged inactivity fees or ceased interest will be considered unclaimed property if discovered during an audit.

The Uniform Unclaimed Property Act of 1983 has three requirements that must be met before you charge inactivity fees or cease interest on accounts.

1. *Enforceable written contract*

Your enforceable contract must have clear terms allowing inactivity charges or ceasing of interest. The owner must have access to the contract. Your contract should clearly define what inactivity is and when the charge will begin or interest will cease.



Send a notice of inactivity contract changes to the owner so they have a chance to respond. If the contract change will affect inactive accounts, send a revised contract to the last known address of all your accounts, including inactive accounts. We will accept a mass mailing to all accounts as a good faith effort to advise the inactive owner.

Problems uncovered in audits have included:

- Posted and pamphlet versions of the contract did not match.
- Inactivity or dormancy was not clearly defined or varied between the contract, fee schedule, and written procedure.
- Contract terms were not accessible or hidden, such as putting the terms in small print on the back of a signature card.
- Inactive fee/interest cessation contract changes are not mailed out to all account holders.

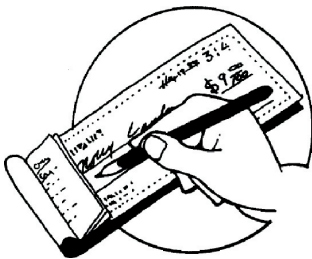
2. Notification of charge letter to inactive accounts over \$10

For accounts over \$10, a letter must be sent to the owner within 90 days before the initial charge, stating the amount of the fee and/or that interest will be ceased and that the condition will be imposed.

Problems encountered include:

- The letter is not sent during the time specified by statute.
- The letter does not state amount of charge.
- A general notice to all depositors is used in place of a specific notice.

3. No reversal of charges or waiver of interest



In several cases, the courts held that if a financial institution routinely reverses inactivity charges or reinstates interest for returning owners, the state

should gain the same benefit with the remaining abandoned accounts.

Problems encountered include:

- The written procedure is not followed in practice.
- The rules, regulations, and/or procedures create a “grace period” amounting to a waiver (i.e., If the depositor comes back after the fees have been imposed but before the items are reported, all inactive fees will be waived.).

OFFICIAL CHECKS, MONEY ORDERS, AND TRAVELERS' CHECKS

Uncashed official checks, such as cashiers' checks or certified checks, are presumed abandoned three years after they are issued or from the last positive owner contact. Unused travelers' checks are abandoned after fifteen years from the issue date or last positive owner contact. For reporting purposes, the owner of the check is the “payee,” not the purchaser.

Important points:

- Contractually, you may not deduct any charges imposed for failure to present the check or other written instrument for payment.
- Money orders and travelers' checks are reportable to the state where they were purchased.
- If you provide a payroll service for companies, payroll service checks are reportable after one year. Return these checks to the issuing company to be reported or report them directly. Because of the short timeframe to return checks to client companies for reporting, many financial institutions report for the companies.
- “Buried” checks can go unreported when a number sequence repeats. If you expect all the older checks to be at the top of the outstanding check report, and it sorts by number, you may find buried pockets of older checks deep in the report where the number sequence has repeated.

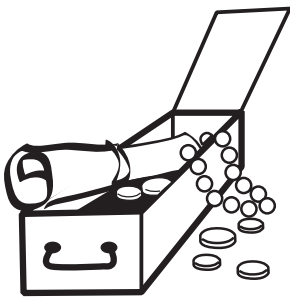
- If you issue checks on the financial institution's account for members, do not redeposit stale-dated check amounts back to the member account without authorization from the member. The payee is the owner of the property unless the member indicates that the check was lost or not used for the purpose intended.

IRA'S, KEOGH'S, AND OTHER RETIREMENT PLANS

Traditional individual retirement accounts (IRA's), and the like, are not payable or distributable until distribution of all or part of the funds would be mandatory. The unclaimed property is presumed abandoned three years after no positive owner contact. For IRA's the mandatory payout age for an account holder is 70 ½. You will need to age potentially unclaimed IRA's accordingly.

Roth IRA's are not subject to abandonment until three years after the owner reaches 59 ½. You only need to report if there is no positive owner contact and the owner is at least 62 ½.

SAFE DEPOSIT BOX CONTENTS



All tangible and intangible property held in a safe deposit box (SDB) is presumed abandoned five years after the lease or rental period has expired. A report including the names of owners of abandoned SDB contents and inventory need to be reported

by November 1. Do not deliver the contents with the report. By March 1 of the following year, the Department will review the bank's inventory and send notice of accepted SDBs and delivery instructions. If boxes are rejected, they may be disposed of in any manner the financial institution chooses.

The Department sells safe deposit contents at auction within five years of delivery. After an auction, financial institutions may claim the auction proceeds as reimbursement for their reported drilling fees and rental charges.

The Department may collect reported drilling fees and rent for the financial institution from an approved claimant. These funds will be sent to the financial institution. We may refer claimants to the financial institution to obtain a settlement of the balance prior to returning their property.

Common problems:

- Property is not clearly described on the bank inventory.
- Bank's inventory sheets are illegible or handwriting is unreadable.
- Failure to identify and drill delinquent boxes on a regular schedule often causes late reporting.
- Property is aged from the drill date of the SDB versus the expiration of the lease or rental period.

CORPORATE AND PERSONAL TRUST

Larger institutions may have a trust department. Corporate trust is where the bank acts as an agent on equity and debt issues for companies and pays stock and bond holders. Personal trust would include managing individual trust accounts and making payments from those trust funds.

There are several types of property that need to be reported in this area including uncashed checks, undeliverable stock, underlying shares, and unredeemed bonds and interest payments.

Equity

Acting as a transfer or paying agent for a corporation is subject to Revised Code of Washington (RCW) 63.29.120.

While the corporation remains liable to report abandoned stock or dividends as unclaimed property, often trust departments report the unclaimed property as a service.



Unclaimed dividends and undelivered stock certificates are presumed abandoned after three years per RCW 63.29.020. Underlying shares and dividends to date are presumed abandoned when there have been three years of uncashed dividends and no contact with the owner.

Debt

Unclaimed matured bonds and unredeemed bond coupons or interest payments are presumed abandoned three years from the date payable when held by a fiduciary or agent (RCW 63.29.120). If you plan to return the property to the issuer to be reported, please be aware that state and local governments holding such funds report such items two years following the date payable, if they hold the funds (see RCW 63.29.130).

The bond trustee or paying agent has the option of reporting the unclaimed property or returning the items to the issuer. If you choose to return property to the issuer, we would appreciate your help in advising the issuer of the potential reporting requirements.

Personal Trust

The main unclaimed property concern in personal trust is uncashed checks from payment out of the trust accounts. Unless the bank receives information that the check should be redeposited to the trust, un-presented checks should be reported after three years.

INTERNAL CONTROL

Internal control of inactive accounts is extremely important. It is advisable to keep these accounts under dual control and implement other types of security measures. Strong internal controls safeguard members' accounts and prevent possible theft or misuse of account monies.

Good examples of internal controls include:

- requiring special authorization to view inactive accounts.
- requiring dual authorizations for any transaction to an inactive account.

- maintaining unclaimed property reports in a locked file with limited access.
- separating reactivation/refund and reporting functions.
- holding periodic internal audits of inactive accounts and procedures.



QUESTIONS & ANSWERS

Q The bank's new computer system will show automatic interest checks and transfers from TCDs as an activity. Is this a problem?

A Automated transactions can provide false evidence of activity where no actual contact exists. Depending on the number of accounts you have, you should develop a manual or automated procedure to periodically verify accounts that appear to be active but have no activity other than the automatic transfer.

One common method is to request a listing of all TCDs with automatic transfer of interest. You can verify the following:

1. other account activities
2. valid mailing addresses
3. cashing of interest checks

Q RCW 63.29.170(5) requires notification letters to accounts \$75 and over after May 1 and no later than August 1 of each year in which a report is filed. It is expensive and duplicates the inactive letter we send a few months earlier. Do we have to send this "Due Diligence" letter?

A This requirement only applies to accounts \$75 and over that appear to have an accurate address according to your records. It intends to promote a good faith search by the holder prior to reporting to the state to avoid unnecessary hardship for the owner and extra administration on our part.

Whenever you send letters relating to inactivity, note those accounts that come back undeliverable. Hopefully, this will eliminate most of the \$75 and over candidates. If duplicate letters are being sent out within months of the required letter, you may want to accommodate your inactive account system to this legal requirement.

Q What is the Unclaimed Property Section's position on charging a dormant fee and ceasing interest on an inactive bank account?

A Court cases have shown that fees charged for inactivity are generally not in the best interest of the missing owner. Other charges imposed are tested in the marketplace and customers complain and/or change financial institutions if a fee is unreasonable. Most "active" customers are oblivious of potential inactive charges and are not available to complain when the account becomes "inactive."

If the financial institution charges dormancy fees or ceases interest on inactive accounts, we expect them to meet the specific requirements of RCW 63.29.060(4). For a fee to be charged or interest to cease due to inactivity the bank must:

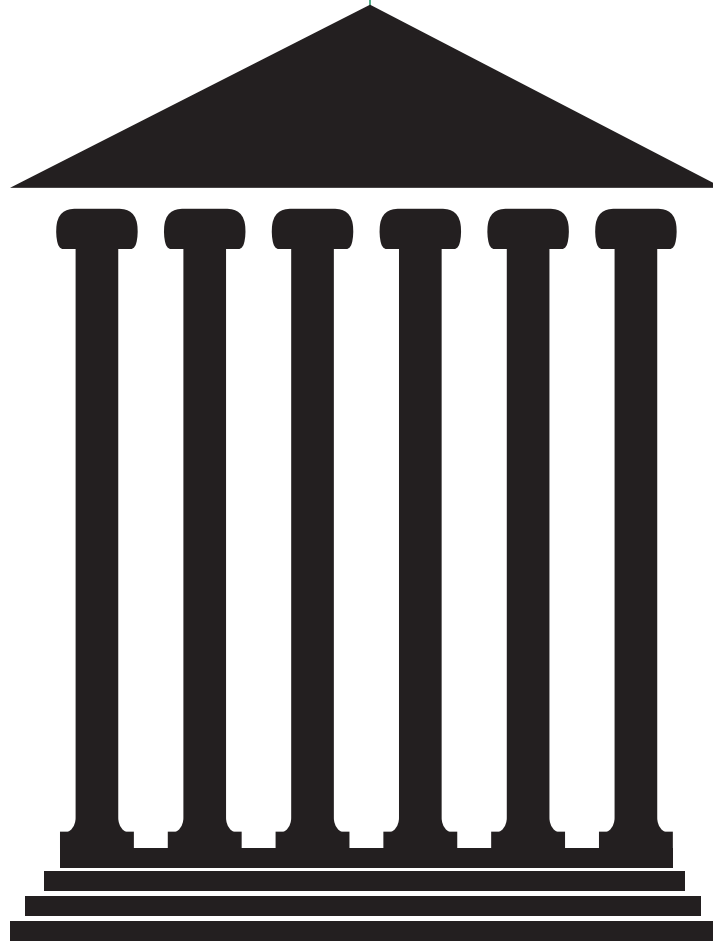
- have an enforceable written contract.

- make mass mailings of contract changes to all depositors, including inactive accounts.
- give prior notice to the \$10 and over inactive accounts 90 days before the initial charge showing amount and effective date.
- not regularly waive conditions.

IMPORTANT: The report of unclaimed property has a column to show inactive fees taken and additional interest. The instructions request a copy of the contract allowing you to take the charge or cease interest.

Q Our credit union has a member with a small savings account and a five year time certificate. There has been no activity of either account for over three years but the certificate will still have 15 months to maturity this November. A member cannot have a time certificate without a savings account. What do we do?

A You should take appropriate steps to locate the owner before reporting. This may include research beyond your normal procedures. If you are unable to locate the owner, you may report the time certificate early with the savings account.



Unclaimed Property Contact Information

Main phone number (*Press "0" for assistance*) (360) 705-6706

Toll Free (*Washington State only*) 1-800-435-2429

Fax (360) 586-2163

E-mail* ucp@dor.wa.gov

Mailing Address
Washington State
Department of Revenue
Unclaimed Property Section
PO Box 47489
Olympia, WA 98504-7489

* If you would like to receive e-mails from us regarding law changes, form updates, or new publications, sign up for Unclaimed Property Holder Notification Listserv. Go to <http://ucp.dor.wa.gov> and click on Join E-mail Service.



<http://dor.wa.gov>

To inquire about the availability of this publication in an alternate format for the visually impaired, please call (360) 705-6715. Teletype (TTY) users please call 1-800-451-7985.

Prepared by the Taxpayer Services Division



Printed on recycled paper

FS0046 7/04

Permission is granted to other state governments to use and modify this material to their particular needs and laws. This publication, or any part thereof, may not be reproduced or transmitted in any form or by any means for a fee or for the purposes of profit-making activities.